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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/653,199      | 09/03/2003  | Yukio Fujii          | 57454-974           | 1761             |

7590 03/07/2005  
MCDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
WASHINGTON, DC 20005-3096

| EXAMINER |
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DUNWOODY, AARON M

| ART UNIT | PAPER NUMBER |
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3679

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/653,199

Applicant(s)

FUJII, YUKIO

Examiner

Aaron M Dunwoody

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 5843369, Obara et al.

In regards to claim 1, Obara et al disclose a rolling bearing ring of a constant velocity joint, employing steel of a component composition containing at least, as alloying elements, at least 0.5 mass % and 0.7 mass % at most of carbon, at least 0.5 mass % and 1.0 mass % at most of silicon, and at least 0.5 mass % and 1.0 mass % at most of manganese with a remainder including iron and inevitable impurities, and having a structure in which a raceway surface is subjected to induction hardening.

In regards to claim 2, Obara et al disclose the steel being employed having a component composition satisfying  $L \geq 50$  in an equation of:

$$L = 105.4 \times (C\%)^{-0.84} \times (Si\%)^{1.18} \times (Mn\%)^{1.24}$$

where C%, Si% and Mn% are a percentage content (mass %) of carbon, silicon and manganese, respectively.

In regards to claim 3, Obara et al disclose a support component of rolling and swinging motion, comprising the rolling bearing ring of a constant velocity joint defined in claim 1.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 5780165, Fukumoto et al.

In regards to claim 1, Fukumoto et al discloses a rolling bearing ring of a constant velocity joint, employing steel of a component composition containing at least, as alloying elements, at least 0.5 mass % and 0.7 mass % at most of carbon, at least 0.5 mass % and 1.0 mass % at most of silicon, and at least 0.5 mass % and 1.0 mass % at most of manganese with a remainder including iron and inevitable impurities, and having a structure in which a raceway surface is subjected to induction hardening.

In regards to claim 2, Fukumoto et al disclose the steel being employed having a component composition satisfying  $L \geq 50$  in an equation of:

$$L = 105.4 \times (C\%)^{-0.84} \times (Si\%)^{1.18} \times (Mn\%)^{1.24}$$

where C%, Si% and Mn% are a percentage content (mass %) of carbon, silicon and manganese, respectively.

In regards to claim 3, Fukumoto et al disclose a support component of rolling and swinging motion, comprising the rolling bearing ring of a constant velocity joint defined in claim 1.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is 703-306-3436. The examiner can normally be reached on 7:30 am - 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P Stodola can be reached on 703-306-5771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Aaron M Dunwoody  
Examiner  
Art Unit 3679

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